

**Pre-Appeal Brief Request for Review  
- Expedited Examining Procedure -  
Examining Group 2672**

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**Customer No. 01333**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of:

James W. Cannon, et al

DISPLAY DEVICE AND METHOD  
FOR DETERMINING AN AREA OF  
IMPORTANCE IN AN ORIGINAL  
IMAGE

Serial No. 10/810,283

Filed 26 March 2004

Group Art Unit: 2672

Examiner: Michelle K. Lay

Mail Stop AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA. 22313-1450

Sir:

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

The Applicants respectfully request a Pre-Appeal Brief Review of the Final Office Action dated April 20, 2007, in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. With no Amendments After Final Rejection having been made, Applicants presume the claims to be as filed in the response filed April 3, 2007. Applicants respectfully request reconsideration in view of the foregoing amendments and the remarks hereinbelow. The following provides the Applicants grounds for traversing rejections made in the Final Rejection.

**1. Rejections under 35 U.S.C. 112, first paragraph:**

Claims 1, 21, and 34 recite a "non-directional signal" to select a portion of the original image. As is described in the specification, a user input generates a signal in response to a user input action. A controller determines what response a system will have to the signal. In the case of claims 1, 21, and 34, the signal is "non-directional" - it does not indicate a direction. A signal either contains certain information or it does not. The "non-directional" signal of claim 1 does not contain directional information. This has two central consequences: the user input control does not have to be one that is adapted to receive a user input action that designates a direction and further does not have to be adapted to generate a signal that has such information encoded therein. A further consequence of this is that a user of the system does not need to suggest a direction of movement when making an input - which greatly simplifies the challenge faced by a user when taking user input actions. It will be appreciated that such a user input action is much easier to execute than making a directional input particularly in a hand held device that is to be actuated while the user is in motion.

The response of the system to the non-directional input signal is to select between available portions of the evaluation image and to provide enlarged presentation of the selected portion. As is noted in the Office Action, this raises the possibility that different portions will be arranged along a vector or other pattern that is suggestive of a direction. However, this obscures the simple fact that the response of the system to the signal does not change the signal itself.

The Examiner also indicates that a jog dial is described in the specification that is rotatable in at least one direction and that rotation in more than one direction could be used to generate directional information that could be used to provide multiple cycling directions. However, the mere fact that an input can generate signals that have directional information does not mean that such directional information must be obtained or used. Further, such a result requires the use of a directional component and the signal is claimed to be non-directional.

The Examiner submits that if the Applicant is trying to claim the non-directional signal, as choosing a specific image region by cycling through the image regions in only one direction, the claim limitations need to be more defined. However, the Applicant is not trying to claim this. In particular, it will be appreciated that as noted in the specification, "the controller 32 can designate a

first portion from the set of portions in accordance with [a] predetermined sequence designated for the set of portions. However, the sequence and order of designation is not critical and can vary.” Page 22, lines 11-18. Thus, there are no grounds for asserting that movement is made in one direction as the sequence and order of designation is not critical and can vary.

In contrast, the Applicants are claiming that the user input is non-directional – it has no directional information – and neither the way in which the processor interprets the non-directional input nor the way in which the non-directional input is generated changes, the claimed condition that the signal is non-directional. Claims 19 and 20 also stand rejected. The Applicants will cancel these claims for the purpose of simplifying the issues for appeal.

## **2. Rejections under 35 U.S.C 112, second paragraph:**

Claims 1-13 and claims 21-43 also stand rejected under 35 U.S.C. 112, second paragraph on grounds that is unclear how a non-directional signal is generated “if such a signal is controlled via an advance button ... or a jog dial” and “if both buttons cycle through the portion of the images in a predetermined direction in order for the user to select the desired portion of the image.” However, this argument relies on the previously discussed premise that the response of the system to the non-directional signal imputes some form of directional information into the signal and fails for the reasons discussed.

## **3. Rejections under 35 USC 103:**

Claims 1-4, 7-18, 34-36 and 44-46 stand rejected on the following grounds:

*Moghadam et al. teaches the limitations of claims 1-4, 7-18, 34-36 and 44-46, with the exception of teaching the designated portion having a magnification. However, Anderson teaches selecting an image from a grid of images on a digital camera and maximizing the selected image on the display.*

To the extent that the arguments presented in the Final Rejection mirrors the arguments presented in the Office Action of November 6, 2006, the Applicants responses made on April 3, 2007 are reasserted.

Further, neither reference shows a step of selecting an image portion using a non-directional signal. Instead, the combination as cited by the examiner requires a plurality of input signals to achieve a magnified view of a portion of an image. Specifically, it is respectfully submitted that the process described in Moghadam et al. provides the ability to select a portion of an image as a hot spot. This requires

that the user select a hot spot designating mode using mode selector switch 36 (signal 1) and then to use thumbwheel switch 38 to select a tile pattern. Mode selector switch 36 is apparently then changed (signal 2) to a tile pattern selecting mode and thumbwheel 38 is used to move a marker between individual tiles of the tile pattern (signal 3) and a hot spot selector switch 40 is then used to designate the marked hotspot as an active area (signal 4). Assuming arguendo that Anderson could be properly combined, then Anderson would allow the user to depress the "magnify" button (signal 5) to cause the portion of the tile that is designated to be presented with increased magnification. In some embodiments of Moghadam et al., the number of signals that must be generated can be reduced by eliminating the steps involved in selecting a tile pattern and, instead, using only one tile pattern.

Clearly this multi-step process is not what is claimed. The Final Rejection fails to address this problem with the combination. Instead the cited combination simply proposes to include the view magnification of Anderson apparently without modification. Therefore, this includes the additional step of pressing the "view" button once that all of the steps that are required by Moghadam et al. to identify a hot spot are performed. Further, Moghadam et al. requires that a gridwork be generated and presented across an image and that a selection of a portion of the image be made before that portion can be seen in large magnification. This increases the probability of error in selecting the proper grid or tile within a grid.

It will be appreciated that both of Moghadam et al. and Anderson describe and use a visible grid system to parse the image into segments from which a segment can be selected for magnification. They do not appear to disclose a system wherein the visible grid is not necessary and therefore teach away from what is claimed.

Further, it is respectfully submitted that the Office Action appears to examine these claims under 35 U.S.C. 103 as if the non-directional signal is one of a "predetermined direction". However, this interpretation is inconsistent with what is claimed. A "predetermined direction" still is a directional signal, which is not what is claimed.

#### **4 Claims 21 –25, 28 – 30, 33 and 39:**

Claims 21-25, 28-30, 33 and 39 stand rejected under 35 U.S.C. 103 in view of the above cited combination of Moghadam et al. and Anderson and,

further in view of Berkner et al. Berkner et al., however, is not cited for any reason that would address the defects in the above-cited combination of Moghadam et al. or Anderson and, these claims therefore are believed to be allowable generally for the reasons stated above with respect to Moghadam et al. and Anderson.

The Applicants also reassert the arguments presented in the Applicants response made on April 3, 2007 and further submit that in Claims 21 and 34 two things occur in response to each non-directional advance signal: a different portion evaluation image is presented on the display in response to each advance signal and, from the non-directional input: the area of importance determination is determined. Clearly, Moghadam et al. and Anderson do not do this. The cited combination with Berkner et al. does not teach a signal that causes such a combination of responses nor is it said to. In fact, as cited in combination, Berkner et al. is said to enable locating a border for the *tiles* – which appears to mean that the overall arrangement of the plurality of tiles would be defined in this manner, which of course, means that these additional input signals would have to be performed before the selection of a tile could be made, thus adding a requirement for further input signals.

It will be appreciated that what is claimed gives a user the capability to view a portion of an evaluation image in magnification and to identify a portion of the image as an area of importance on the basis of a non-directional input signal. The Office Action and Final Rejection fail to suggest that such a result is achieved with the cited combination, demonstrating the unobviousness of this result.

It is respectfully submitted, therefore, that in view of the above amendments and remarks, that this application is now in condition for allowance, prompt notice of which is earnestly solicited.

Respectfully submitted,



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